

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

OPERATIVE PLASTERERS AND CEMENT	)	
MASONS INTERNATIONAL ASSOCIATION	)	
LOCAL 262 ANNUITY FUND, Individually	)	NO. 08-CV-5523 (LAK)
And On Behalf of All Others Similarly Situated,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<u>JURY TRIAL DEMANDED</u>
	)	
LEHMAN BROTHERS HOLDINGS, INC.,	)	
RICHARD S. FULD, JR., CHRISTOPHER M.	)	
O'MEARA, JOSEPH M. GREGORY, and	)	
ERIN CALLAN,	)	
	)	
Defendants.	)	
	)	

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**MEMORANDUM OF LAW IN FURTHER SUPPORT OF THE PENSION FUND  
GROUP'S MOTION FOR APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL  
OF ITS SELECTION OF COUNSEL AS LEAD COUNSEL FOR THE CLASS**

The Alameda County Employees' Retirement Association ("ACERA"), the Government of Guam Retirement Fund ("Guam"), the Northern Ireland Local Governmental Officers Superannuation Committee ("NILGOSC"), The City of Edinburgh Council as Administering Authority of the Lothian Pension Fund ("Lothian") and the Operating Engineers Local 3 Trust Fund ("Operating Engineers") (collectively the "Pension Fund Group"), respectfully submit this memorandum in further support of their motion to be appointed as Lead Plaintiff pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78u-4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), and for approval of their selection of the law firms of Bernstein Litowitz Berger & Grossmann LLP ("Bernstein Litowitz") and Schiffrin Barroway Topaz & Kessler, LLP ("Schiffrin Barroway") as Lead Counsel for the Class.

On June 30, 2008, the Pension Fund Group and one other movant group filed motions in this Court seeking appointment as lead plaintiff in this action. *See* The Pension Fund Group's Motion To Serve As Lead Plaintiff (Docket No. 6); The Fire & Police Pension Association of Colorado ("Colorado") and The Brockton Contributory Retirement System's ("Brockton") Motion To Serve As Lead Plaintiff (Docket No. 3). Recognizing that, with losses of more than \$20 million during the Class Period (September 13, 2006 through June 6, 2008), the Pension Fund Group has the largest financial interest in this litigation, on July 10, 2008, Brockton and Colorado filed a brief stating that they will not oppose the Pension Fund Group's motion for appointment as lead plaintiff. *See* Memorandum Concerning The Motion Of The Fire & Police Pension Association Of Colorado And The Brockton Contributory Retirement System For Appointment As Lead Plaintiff And For Approval Of Its Selection Of Lead Counsel (Docket No. 10 at 2) ("[Brockton and Colorado] understand[] that other movants seeking lead plaintiff status

[the Pension Fund Group] have alleged losses greater than those asserted by . . . [Brockton and Colorado].”). Thus, all movants seeking appoint as lead plaintiff in the Court agree that the Pension Fund Group has the greatest financial interest in this case; and thus, is the most adequate plaintiff to represent the class.

The Private Securities Litigation Reform Act of 1995 (“PSLRA”) requires the Court to appoint as Lead Plaintiff the movant or group of movants with the “largest financial interest in the relief sought by the class” and who “otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.” *See* 15 U.S.C. § 78u-4(a)(3)(B); *see also Glauser v. EVCI Career Colleges Holding Corp.*, 236 F.R.D. 184, 187 (S.D.N.Y. 2006). As stated in the Pension Fund Group’s June 30, 2008 motion, comprised of sophisticated institutions with claims typical of the Class, the Pension Fund Group clearly satisfies these requirements and should be appointed Lead Plaintiff. Indeed, members of the Pension Fund Group are “precisely the type of sophisticated institutional investor that Congress and this Court have recognized as being ideally suited to control this type of securities class action litigation.” *Glauser*, 236 F.R.D. at 188.

The Pension Fund Group’s collective loss of approximately of **\$28.2 million** on a first-in, first-out (“FIFO”) basis and **\$27.6 million** on a last-in, first-out (“LIFO”) basis, on its members’ Class Period transactions in Lehman Brothers Holdings, Inc.’s (“Lehman” or the “Company”) stock is significantly larger than the losses of the sole competing movants, who assert a maximum possible FIFO loss of \$2.6 million. Specifically, Brockton and Colorado, which are the only other movants seeking appointment as Lead Plaintiffs, claim a collective loss of just \$2.628 million on a on a FIFO basis and \$1.257 million on a LIFO basis. Indeed, Brockton’s and Colorado’s July 10, 2008 brief concedes that the Pension Fund Group has the greatest

financial interest in this litigation and, therefore, is the “most adequate plaintiff” under the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B). *See* Docket No. 10 at 2.

Accordingly, the Pension Fund Group respectfully requests that the Court appoint it as Lead Plaintiff and approve its selection of Bernstein Litowitz and Schiffrin Barroway as Lead Counsel for the Class.

DATED: July 16, 2008  
New York, New York

Respectfully submitted,

By: /s/ Gerald H. Silk

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